

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, Case No. 3:18-cr-00026-JGC-1
Toledo, Ohio

Plaintiff,

vs.

Monday, December 17, 2018

KARL J. ROGERS,

Defendant.

TRANSCRIPT OF TELEPHONIC STATUS CONFERENCE PROCEEDINGS
BEFORE THE HONORABLE JAMES G. CARR
SENIOR UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: **Tracey Ballard Tangeman,**
Assistant United States Attorney

For the Defendant: **Reese M. Wineman, Esquire**

Official Court Reporter: Stacey L. Kiprotich, RMR, CRR
United States District Court
1716 Spielbusch Avenue, Suite 120
Toledo, Ohio 43604
(419) 213-5520

Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 **Monday, December 17, 2018**

2 - - -

3 **(Proceedings commenced at 9:34 a.m.)**

4 - - -

09:39:24 5 JUDICIAL ASSISTANT: Okay. Counsel, I now
6 have Judge Carr on the line. If you could identify yourself
7 and your client for the Judge, please, beginning with the
8 plaintiff.

9 MS. TANGEMAN: Tracey Tangeman for the
09:39:34 10 government.

11 MR. WINEMAN: And Reece Wineman for the
12 defendant, Karl Rogers.

13 THE COURT: Okay. I think what we have to do
14 is -- there's a motion to travel. We also have to take care
09:39:48 15 of some odds and ends. Apparently, he wants to go to trial;
16 right?

17 MR. WINEMAN: That's correct, Your Honor.

18 THE COURT: Okay. Have you seen -- I assume
19 the government is just going to give the jury a sample of
09:40:02 20 the stuff; right, Tracey?

21 MS. TANGEMAN: Correct, a representative
22 sample.

23 THE COURT: Yeah. How many clips or photos,
24 and how long do you think that will be? Obviously, I don't
09:40:14 25 want to overdo it. But I've tried to talk the government in

1 the past out of showing stuff, but it insists on its, quote,
2 "right" to let the jury see it. So it's very gruesome --

3 MS. TANGEMAN: Yeah.

4 THE COURT: -- I will be very candid with you.

09:40:28 5 MS. TANGEMAN: Yeah. I don't have an exact
6 number yet, Your Honor, but my guess is it would be
7 somewhere in the double digits, but not high double digits.
8 This defendant had thousands, and thousands, and thousands
9 of images and videos, so his cache was extremely large. But
09:40:52 10 we'll do what we normally do, which is, you know, keep it
11 down to a very small number and try to take a representative
12 of each kind.

13 THE COURT: I would really like no more than
14 10 minutes of that stuff. Having sat through it, I would
09:41:06 15 rather, you know -- I think the brevity is -- I mean, the
16 point is you don't want to get to the point where the jury
17 literally gets sick.

18 MS. TANGEMAN: I understand, yep.

19 THE COURT: Okay. And I trust, Reese, that
09:41:22 20 you made really clear to your client that -- I'm not -- I
21 don't get involved in plea negotiations. But I'm just
22 saying, you know, I think if you -- let me do this:
23 Obviously, I can't make any representation about any
24 sentence of any kind whatsoever.

09:41:42 25 MR. WINEMAN: No. I know that, Judge.

1 THE COURT: You might call Donna Grill at the
2 Federal Public Defender's Office.

3 MR. WINEMAN: Okay. Who is that, Judge?

4 THE COURT: Keep my fingerprints off of it,
09:41:56 5 certainly, in talking to your client and so forth.

6 MR. WINEMAN: Yeah.

7 THE COURT: Basically just saying do your due
8 diligence about me, sentencing, and so forth in these cases.
9 Okay?

09:42:04 10 MR. WINEMAN: Yeah. Donna Grill, Judge?

11 THE COURT: G-r-i-l-l. Tracey, offhand, just
12 so -- Tracey, do you know Donna's number offhand over at the
13 office number?

14 MS. TANGEMAN: I do. I can email it to Reece,
09:42:20 15 if you would like.

16 MR. WINEMAN: Yeah. That would be fine.
17 Thank you.

18 THE COURT: I mean, that's as much as I'm
19 going to say. Okay?

09:42:28 20 MR. WINEMAN: Yeah, that's fine, Judge. I had
21 about an hour long meeting with him two weeks ago.

22 THE COURT: Yeah, I understand.

23 MR. WINEMAN: Yeah, but it's a good idea.

24 THE COURT: Just, I mean, candidly -- well,
09:42:42 25 never mind. I've said too much anyway.

1 MR. WINEMAN: No, no. I appreciate it.

2 THE COURT: I don't mind trying it. I get
3 paid no matter what I do, and I like trials.

4 MR. WINEMAN: Sure.

09:42:54 5 THE COURT: And Tracey is nice, but I've got
6 to warn you, she's a very vigorous prosecutor. Okay?

7 MR. WINEMAN: Yes, yes.

8 THE COURT: There will be no-holds-barred, and
9 there will be nothing I can do about it because she, you
09:43:04 10 know, may flash a bit of an elbow going up for a rebound,
11 but she's not going to try to throw anybody in the cheek.

12 MR. WINEMAN: No. That's fine Judge, yeah.

13 THE COURT: So she'll keep you within the
14 court in metaphoric and actual terms. So. . .

09:43:20 15 MR. WINEMAN: Right.

16 THE COURT: I've only tried one or two of them
17 and -- I think just one. And I'll tell you, it just takes a
18 glance at the jury --

19 MR. WINEMAN: Yeah.

09:43:32 20 THE COURT: -- and that's all it takes, okay,
21 to get the message that. . .

22 And, you know, candidly, we get jurors from, what, 20,
23 21, 22 counties? What do we have? They're all Northwest
24 Ohio.

09:43:46 25 MS. TANGEMAN: Yeah.

1 MR. WINEMAN: Right, yep.

2 THE COURT: You know, we get them from places,
3 unsophisticated, you know, semi-Bible Belt towns like
4 Tontogany, and Rising Sun, and Celina, and, you know, St.
09:44:00 5 Marys.

6 MR. WINEMAN: And Norwalk, yeah.

7 THE COURT: I mean, these are small town --
8 well, on the whole, small cities, small town people.
9 And. . .

09:44:12 10 MR. WINEMAN: Exactly.

11 THE COURT: And I don't care, you know. It
12 would be about a three-day trial, tops. And I can't imagine
13 he's going to put on a defense. If he wants to, that's
14 fine. But. . .

09:44:24 15 MR. WINEMAN: Right.

16 THE COURT: So, Tracey, has any defendant ever
17 put on a defense?

18 MS. TANGEMAN: No, no. I mean, it's very
19 difficult. And this guy made admissions.

09:44:32 20 MR. WINEMAN: Yeah.

21 MS. TANGEMAN: I mean, I don't know how he
22 gets out from underneath that. But, I mean. . .

23 MR. WINEMAN: Yeah, yeah. I've had him review
24 his admissions in detail.

09:44:48 25 MS. TANGEMAN: Uh-huh.

1 THE COURT: Yeah. I know. I know he has.
2 Well, at times you got to earn your money and do the best
3 you can. So. . .

4 MR. WINEMAN: Yeah. Exactly, Judge. Yeah, I
09:44:56 5 will definitely contact this Donna Grill.

6 THE COURT: Yeah. Give Donna a call.

7 MR. WINEMAN: I will.

8 THE COURT: And I guess, you know, just -- do
9 not, please -- I just think keep me out of it because that
09:45:04 10 will be a clear violation.

11 MR. WINEMAN: Oh, I will, yeah.

12 THE COURT: And I've stepped up to the line
13 and maybe stuck a big toe across it, and I don't want to do
14 anything to upset the --

09:45:18 15 MR. WINEMAN: No, no. I appreciate it, Judge.

16 THE COURT: If there's no plea, there's no
17 plea. If it doesn't --

18 MR. WINEMAN: Right.

19 THE COURT: You know, it doesn't matter to me.
09:45:28 20 And what's --

21 MR. WINEMAN: No. I understand.

22 THE COURT: -- the mandatory minimum?

23 MS. TANGEMAN: What's the what?

24 THE COURT: What's the mandatory minimum?

09:45:42 25 MS. TANGEMAN: Five years, 60 months.

1 THE COURT: Good. Okeydoke.

2 On the motion to travel, so what -- have you heard
3 from Pretrial? I mean, I just don't -- well, I have no
4 problem, as long as he's been in compliance so far, you
09:45:52 5 know.

6 MR. WINEMAN: Right.

7 THE COURT: He's not going to be home for the
8 holidays for a long time. So. . .

9 MR. WINEMAN: Right.

09:45:58 10 THE COURT: So, Tracey, what's -- is there any
11 significant, you know, substantial reason not to let him go?

12 MS. TANGEMAN: Well, I guess I have some
13 concerns that if we did it for him, it would essentially
14 allow every single person to get out for the holidays. I
09:46:18 15 mean, this is one where he is in custody; right?

16 THE COURT: Yeah.

17 MS. TANGEMAN: He's not out. So, I mean, my
18 compassion is not absent; but at the same time, I just -- I
19 think that it would set a dangerous precedent that, you
09:46:36 20 know, every defendant could file this motion, and we could
21 literally be opening up the jail door to allow every single
22 federal defendant to go see family for the holidays.

23 THE COURT: If I do, let me condition it --
24 first of all, it's a brief -- it's six hours. And what are
09:46:58 25 the -- who is going to pick him up? Who is going to take

1 him, you know? Who is going to be in charge of him?

2 MR. WINEMAN: I would say the parents,
3 Your Honor.

4 THE COURT: Okay. I mean, I really have no
09:47:14 5 problem with that. And, Tracey -- the other thing, Reese,
6 you tell him that he's not to say to anybody where he's
7 going or why he's going.

8 MR. WINEMAN: Right, Judge. I will.

9 THE COURT: But if -- it would simply -- he
09:47:26 10 can simply -- he may have already told somebody in the jail
11 that he's made this request and. . .

12 MR. WINEMAN: Right. No, I will make sure
13 that mum's the word.

14 THE COURT: Number one, Tracey, the holidays
09:47:42 15 are few and far between. I know there are other events,
16 but, you know, he's in the custody of his parents. And he
17 can explain to them "in the custody" means in one of their
18 presences --

19 MR. WINEMAN: Right.

09:48:02 20 THE COURT: -- you know, the entire time from
21 the time they pick him up to probably around --

22 MR. WINEMAN: Yeah. All right, Judge. Will
23 do.

24 THE COURT: Is departure and return time 4:00
09:48:16 25 to 10:00? Or is that -- I assume it's not. In other words,

1 I assume that he would -- the period would be roughly --

2 MR. WINEMAN: Well, yeah, whatever we put in
3 the motion.

09:48:36

4 THE COURT: Medina is a good two and a half
5 hours away --

6 MR. WINEMAN: Yeah, exactly.

7 THE COURT: -- if you go over some direct
8 route. It's a pretty route, but in terms of some of the
9 small towns you go through.

09:48:44

10 MR. WINEMAN: Right.

11 THE COURT: Or you can also go on the
12 turnpike.

13 So, Tracey, I'll deal with the next one when it comes
14 up --

09:48:56

15 MS. TANGEMAN: Okay.

16 THE COURT: -- candidly.

17 I mean, have you heard from Pretrial, Tracey?

09:49:08

18 MS. TANGEMAN: Yeah, I think Cheryce emailed
19 and said she basically just wanted to confirm with the
20 individuals.

21 THE COURT: Yeah.

22 MS. TANGEMAN: And I wanted to hear from her
23 as well. But I just don't think I can do anything but
24 object because, yeah, it would open the jail doors to every
09:49:24 25 defendant.

1 THE COURT: I'll deal with next guy that comes
2 knocking on my door.

3 MS. TANGEMAN: Okay.

4 THE COURT: It might be a year for that. But,
09:49:32 5 you know, it's -- maybe I'm affected by the euphoria of the
6 fact that my wife's 75th birthday is tomorrow. Today is our
7 62nd anniversary. After a night with me, my wife aged a
8 year. But much more importantly, our entire family came as
9 a surprise to her this weekend and it was wonderful.

09:49:58 10 So the guy is going to be home -- how old a man is he?

11 MS. TANGEMAN: I can tell you. He is --

12 MR. WINEMAN: He's mid-30s, Judge.

13 THE COURT: Okay. And what's the guideline if
14 he. . .

09:50:16 15 MS. TANGEMAN: The guideline is 151 to 188
16 after acceptance.

17 THE COURT: So what's that, about 15 years?
18 12 years? I don't know. 15 years?

19 MS. TANGEMAN: Correct. 15 years would be the
09:50:30 20 higher end of that, so it is about 12 to 15, yeah.

21 THE COURT: Okay. All right. I'm trying to
22 get Cheryce's -- what's Cheryce's email? For some reason,
23 it doesn't pop up. I've got another Cheryce --

24 MR. WINEMAN: It's reesewineman@live.com.

09:50:56 25 THE COURT: No. I'm talking about the

1 pretrial officer.

2 MS. TANGEMAN: Cheryce's email is Cheryce,
3 C-h-e-r-y-c-e --

4 THE COURT: Oh. "Y," okay. Now I've got it.

09:51:10 5 MS. TANGEMAN: Okay.

6 THE COURT: And let me email the two of you.

7 And, Reese, what's your email?

8 MR. WINEMAN: Reesewineman@live.com, Judge.

9 THE COURT: W-i-n-e, Wineman?

09:51:34 10 MR. WINEMAN: Right.

11 THE COURT: And your name is -- okay. So
12 reesewineman@?

13 MR. WINEMAN: Live, L-i-v-e --

14 THE COURT: Yeah.

09:51:46 15 MR. WINEMAN: -- .com

16 THE COURT: I hope that works. Okay. If you
17 don't get it, then I'm sending a -- Cheryce, I've been
18 misspelling her name all these years.

19 Okay. Is he in the county jail? Where is the housed,
09:54:44 20 Reese? Do you know?

21 MR. WINEMAN: It's in rural Willard,
22 Your Honor.

23 THE COURT: Oh. He's out in the neighborhood.
24 All right.

09:54:52 25 MR. WINEMAN: Yeah, yeah.

1 THE COURT: What is that from Medina would you
2 guess, being generally familiar, probably better than --

3 MR. WINEMAN: I would say an hour and a half,
4 Your Honor.

09:55:06 5 THE COURT: Okay. So he can be picked up
6 at -- wait a minute -- I'm going to say at 2:30.

7 MR. WINEMAN: Yeah. That's fine, Judge.

8 THE COURT: All right. To return not later
9 than midnight.

09:55:42 10 MR. WINEMAN: Right.

11 THE COURT: Cheryce, okay to let D travel in
12 company of parents.

13 MR. WINEMAN: Right.

14 THE COURT: Low battery.

09:56:20 15 (Court Reporter clarification)

16 THE COURT: I said, "Low battery." It's on my
17 iPad.

18 Cheryce, okay to let D travel in company of parents
19 provided he is in actual, physical presence of at least one
09:56:36 20 of them at all times from pick up to return, and that he not
21 disclose to anybody the fact that he is being granted this
22 extraordinary request, which is rarely granted, and as to
23 which the government has expressed a strong objection on the
24 basis that others confined in pretrial detention will want
09:57:08 25 to do likewise.

1 The simple truth is, Tracey, I've got no concern about
2 his appearance or the custodians. And, you know, candidly,
3 others that may seek the same favor isn't, I don't think, a
4 proper consideration at this point. I realize it may create
09:57:30 5 a problem down the road. I will deal with it if it does.
6 Let's hope it doesn't.

7 They may pick him up at 2:30 p.m. and are to return
8 him not later than midnight.

9 MR. WINEMAN: Fine, Judge.

09:57:48 10 THE COURT: If there is any reason for delay
11 or problem, the custodians are to notify you, AUSA Tangeman,
12 and his attorney, Reese Wineman, all of whom will provide
13 you with their phone numbers immediately. Okay?

14 MR. WINEMAN: Got it, Judge.

09:58:26 15 THE COURT: Okay. Yeah, he may have talked to
16 people. If he has, tell him, you know, we'll just deal with
17 it, you know.

18 MR. WINEMAN: Yeah. I will tell him to ferme
19 la bouche.

09:58:42 20 THE COURT: Yeah, just keep -- loose lips will
21 sink ships. Okay?

22 Give Donna a call and go from there.

23 MR. WINEMAN: I will, Judge, yeah.

24 THE COURT: And I'm going to set a plea
09:58:56 25 date -- plea notification date --

1 MR. WINEMAN: Right.

2 THE COURT: -- not later than 10 days before
3 the voir dire.

4 MR. WINEMAN: Okay.

09:59:08 5 THE COURT: And, by the way, Tracey, I think
6 we should have 60 jurors. That, apparently, has been a
7 pretty standard -- oops. Sending it to our former court
8 reporter, Tracy McGurk. That doesn't work.

9 JUDICIAL ASSISTANT: Voir dire is set for --

09:59:32 10 THE COURT: Oh. Wait, wait. No. I just sent
11 it to somebody else. Okay. Tracey -- let me try Tangeman.
12 There we go. Okay. Reesewineman@live or life?

13 MR. WINEMAN: Live, l-i-v-e, Judge.

14 THE COURT: Okay.

09:59:54 15 MR. WINEMAN: .com.

16 THE COURT: Okay. Very good.

17 JUDICIAL ASSISTANT: Judge, one last thing.

18 DeAnna has a note that we need to discuss the number of
19 jurors to be brought in for voir dire and that's set for
10:00:08 20 Friday, February 1.

21 THE COURT: So, yeah, notify us by
22 January 15th --

23 MR. WINEMAN: Yeah, Judge.

24 THE COURT: -- if you want to call off the
10:00:18 25 jurors. Tell him that if there is a subsequent plea, number

1 one, quite candidly, he may lose acceptance of
2 responsibility or the full benefit of that.

3 MR. WINEMAN: Yeah, I got it.

4 THE COURT: Maybe he changes his mind. Or, I
10:00:34 5 mean, a subsequent plea, comes in the morning of trial and
6 says, "Uh-oh. I've seen, you know" --

7 MR. WINEMAN: No. I won't do that.

8 THE COURT: Well, I mean, if he wants to, he's
9 entitled to it. You can't tell him to plead or not plead.
10:00:48 10 You can't control the decision.

11 MR. WINEMAN: No. I understand.

12 THE COURT: Tell him, you know --

13 MR. WINEMAN: Yeah. I will make it clear that
14 January 15th is the cutoff date, Judge.

10:01:00 15 THE COURT: Yeah. But, you know, if he
16 changes his mind, he changes his mind. But, you know, the
17 delay in notifying, especially when we're going to be
18 bringing in 60 jurors --

19 MR. WINEMAN: Yeah, exactly.

10:01:14 20 THE COURT: -- you know, I will take that --
21 well, I'm not going to say that. Okay?

22 MR. WINEMAN: No, no. I understand. Yep.

23 THE COURT: Now, do you foresee any motions in
24 limine?

10:01:24 25 MR. WINEMAN: No. Not at this time, Judge.

1 THE COURT: Okay. I will just say: Motions
2 in limine due two weeks before trial, reply in one week.

3 Tracey, do you have anything?

4 MS. TANGEMAN: I might have one thing, yeah.

10:01:42 5 I'll have to --

6 THE COURT: Well, what might that be do you
7 think?

8 MS. TANGEMAN: Well, it may be that I'll file
9 a motion in limine that there should be no raising of any
10 suppression issues, as those could be litigated prior to
11 trial.

12 MR. WINEMAN: No. That's not a problem,
13 Trace. Okay.

14 THE COURT: Okay. So, yeah, I'll leave the
10:02:08 15 deadline.

16 (Court Reporter clarification)

17 THE COURT: Yeah. The deadline will be two
18 weeks for motion -- deadline for any motions in limine, if
19 any, two weeks prior to trial; opposition, one week -- due
10:02:30 20 one week prior to trial.

21 MR. WINEMAN: All right, Judge. Fine.

22 THE COURT: Okay?

23 MR. WINEMAN: Got it.

24 THE COURT: Good enough.

10:02:38 25 And anything further, Reece, for you?

1 MR. WINEMAN: No. I'm good, Judge.

2 THE COURT: Okay. Tracey?

3 MR. WINEMAN: Have a happy holiday.

4 THE COURT: Oh, that's right. Have a nice

10:02:46 5 Christmas, everybody, nice holiday, and good New Year, and
6 I'll see you in February.

7 MR. WINEMAN: You too, Trace.

8 THE COURT: I'm pretty sure that you have the
9 unwelcome task of seeing me in January at some point in all
10:03:00 10 likelihood.

11 MR. WINEMAN: All right, Judge.

12 THE COURT: Okay. Good enough. Tracey and
13 Reese, have a good holiday season and a good New Year.

14 MR. WINEMAN: You too, Judge.

10:03:08 15 MS. TANGEMAN: You as well.

16 THE COURT: Thanks.

17 (Proceedings concluded at 10:03 a.m.)

18 - - -

19 **C E R T I F I C A T E**

20 I certify that the foregoing is a correct transcript
21 of the record of proceedings in the above-entitled matter
22 prepared from my stenotype notes.

22 /s/ Stacey L. Kiprotich 10/29/2021
23 STACEY L. KIPROTICH, RMR, CRR DATE

24

25

26